

OLL85-1461
16 May 1985

MEMORANDUM FOR: See Distribution

FROM:

Chief, Legislation Division
Office of Legislative Liaison

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SUBJECT: House Permanent Select Committee on Intelligence
(HPSCI) Draft Authorization Bill and Accompanying
Report

1. Attached at Tab A for your review and comment is H.R. 2419, the Intelligence Authorization Act for Fiscal Year 1986, as reported out by HPSCI on 15 May 1985. Also attached at Tab B for your review is the HPSCI report accompanying H.R. 2419 which provides a section-by-section analysis of each of the provisions contained in the bill. We have been requested by HPSCI staff to provide the Agency's formal views on the attached bill and accompanying report. Earlier informal comments were provided to the Committee on a previous draft of the bill on 13 May 1985. A copy of these informal comments are attached at Tab C for your information, and can be referred to in reviewing this version of the bill.

2. The attached informal comments set forth most of the major objections to this bill earlier identified by the Agency. With respect to section 105 of the bill, which contains a prohibition on covert assistance for military operations in Nicaragua, this provision was amended after the printing of the bill attached at Tab A, and the new provision on which your comments should be based can be found on pages 7 and 8 of the Committee's report at Tab B. While you should not feel constrained to limit your comments to those set forth in the earlier 13 May letter, this letter should be used as the framework upon which any additional objections are offered. Comments which already are contained in the 13 May letter need not be repeated unless you either disagree with a stated argument or wish to strengthen or embellish it. Additional suggestions on matters not covered by the letter are, of course, most welcome.

3. I would appreciate receiving your comments on the attached bill and report no later than close of business, Wednesday, 22 May 1985.

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Attachments

Tab A - H.R. 2419
Tab B - HPSCI Report
Tab C - Informal Comments

Distribution:

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LEG/OLL ☐ (16 May 1985)

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99TH CONGRESS
1ST SESSION

H. R. 2419

To authorize appropriations for fiscal year 1986 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 8, 1985

Mr. HAMILTON introduced the following bill; which was referred to the
Permanent Select Committee on Intelligence

A BILL

To authorize appropriations for fiscal year 1986 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That this Act may be cited as the "Intelligence Authoriza-
- 4 tion Act for Fiscal Year 1986".

1 TITLE I—INTELLIGENCE ACTIVITIES

2 AUTHORIZATION OF APPROPRIATIONS

3 SEC. 101. Funds are hereby authorized to be appropri-
4 ated for fiscal year 1986 for the conduct of the intelligence
5 and intelligence-related activities of the following elements
6 (or offices, agencies or subelements thereof) of the United
7 States Government:

8 (1) The Central Intelligence Agency.

9 (2) The Department of Defense.

10 (3) The Defense Intelligence Agency.

11 (4) The National Security Agency.

12 (5) The Department of the Army, the Department
13 of the Navy, and the Department of the Air Force.

14 (6) The Department of State.

15 (7) The Department of the Treasury.

16 (8) The Department of Energy.

17 (9) The Federal Bureau of Investigation.

18 (10) The Drug Enforcement Administration.

19 CLASSIFIED SCHEDULE OF AUTHORIZATIONS

20 SEC. 102. The amounts authorized to be appropriated
21 under section 101, and the authorized personnel ceilings as of
22 September 30, 1986, for the conduct of the intelligence and
23 intelligence-related activities of the elements (or offices,
24 agencies or subelements thereof) listed in such section, are
25 those specified in the classified Schedule of Authorizations
26 prepared by the Permanent Select Committee on Intelligence

1 to accompany H.R. 2419 of the Ninety-ninth Congress. That
2 Schedule of Authorizations shall be made available to the
3 Committees on Appropriations of the Senate and House of
4 Representatives and to the President. The President shall
5 provide for suitable distribution of the Schedule, or of appro-
6 priate portions of the Schedule, within the executive branch.

7 AUTHORIZATION OF APPROPRIATIONS FOR COUNTERTER-
8 RORISM ACTIVITIES OF THE FEDERAL BUREAU OF
9 INVESTIGATION

10 SEC. 103. In addition to the amounts authorized to be
11 appropriated under section 101(9), there is authorized to be
12 appropriated for fiscal year 1986 the sum of \$15,200,000 for
13 the conduct of the activities of the Federal Bureau of Investi-
14 gation to counter terrorism in the United States.

15 PERSONNEL CEILING ADJUSTMENTS

16 SEC. 104. The Director of Central Intelligence may au-
17 thorize employment of civilian personnel in excess of the
18 numbers authorized for the fiscal year 1986 under sections
19 102 and 202 of this Act when he determines that such action
20 is necessary to the performance of important intelligence
21 functions, except that such number may not, for any element
22 (or offices, agencies or subelements thereof) of the Intelli-
23 gence Community, exceed 2 per centum of the number of
24 civilian personnel authorized under such sections for such ele-
25 ment. The Director of Central Intelligence shall promptly
26 notify the Permanent Select Committee on Intelligence of the

1 House of Representatives and the Select Committee on Intel-
2 ligence of the Senate whenever he exercises the authority
3 granted by this section.

4 PROHIBITION ON COVERT ASSISTANCE FOR MILITARY
5 OPERATIONS IN NICARAGUA

6 SEC. 105. During fiscal year 1986, no funds available to
7 the Central Intelligence Agency, the Department of Defense,
8 or any other agency or entity of the United States involved in
9 intelligence activities may be obligated or expended for the
10 purpose or which would have the effect of supporting, direct-
11 ly or indirectly, military or paramilitary operations in Nicara-
12 gua by any nation, group, organization, movement, or
13 individual.

14 TITLE II—INTELLIGENCE COMMUNITY STAFF
15 AUTHORIZATION OF APPROPRIATIONS

16 SEC. 201. There is authorized to be appropriated for the
17 Intelligence Community Staff for fiscal year 1986 the sum of
18 \$21,900,000.

19 AUTHORIZATION OF PERSONNEL END-STRENGTH

20 SEC. 202. (a) The Intelligence Community Staff is au-
21 thorized two hundred and thirty-three full-time personnel as
22 of September 30, 1986. Such personnel of the Intelligence
23 Community Staff may be permanent employees of the Intelli-
24 gence Community Staff or personnel detailed from other ele-
25 ments of the United States Government.

1 (b) During fiscal year 1986, personnel of the Intelli-
2 gence Community Staff shall be selected so as to provide
3 appropriate representation from elements of the United
4 States Government engaged in intelligence and intelligence-
5 related activities.

6 (c) During fiscal year 1986, any officer or employee of
7 the United States or a member of the Armed Forces who is
8 detailed to the Intelligence Community Staff from another
9 element of the United States Government shall be detailed on
10 a reimbursable basis, except that any such officer, employee,
11 or member may be detailed on a nonreimbursable basis for a
12 period of less than one year for the performance of temporary
13 functions as required by the Director of Central Intelligence.

14 INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN
15 SAME MANNER AS CENTRAL INTELLIGENCE AGENCY

16 SEC. 203. During fiscal year 1986, activities and per-
17 sonnel of the Intelligence Community Staff shall be subject to
18 the provisions of the National Security Act of 1947 (50
19 U.S.C. 401 et seq.) and the Central Intelligence Agency Act
20 of 1949 (50 U.S.C. 403a et seq.) in the same manner as
21 activities and personnel of the Central Intelligence Agency.

1 TITLE III—CENTRAL INTELLIGENCE AGENCY

2 RETIREMENT AND DISABILITY SYSTEM

3 AUTHORIZATION OF APPROPRIATIONS

4 SEC. 301. There is authorized to be appropriated for the
5 Central Intelligence Agency Retirement and Disability Fund
6 for fiscal year 1985 the sum of \$101,400,000.

7 TITLE IV—PROVISIONS RELATING TO

8 INTELLIGENCE AGENCIES

9 SEC. 401. (a) Title V of the National Security Act of
10 1947 (50 U.S.C. 413), relating to accountability for intelli-
11 gence activities, is amended by adding at the end thereof the
12 following:

13 "NOTICE TO CONGRESS OF CERTAIN EXPENDITURES AND

14 CERTAIN TRANSFERS OF DEFENSE ARTICLES

15 "SEC. 502. (a)(1) Funds available to an intelligence
16 agency may be obligated or expended for an intelligence or
17 intelligence-related activity only if—

18 "(A) those funds were specifically authorized by
19 the Congress for use for such activity; or

20 "(B) in the case of funds from the Reserve for
21 Contingencies of the Central Intelligence Agency and
22 consistent with the provisions of section 501 of this
23 Act concerning any significant anticipated intelligence
24 activity, the Director of Central Intelligence has, sub-
25 ject to the provisions of section 501, notified the appro-

1 prate congressional committees of the intent to make
2 such funds available for such activity; or

3 “(C) in the case of funds specifically authorized by
4 the Congress for a different activity—

5 “(i) the activity to be funded is a higher pri-
6 ority intelligence or intelligence-related activity;

7 “(ii) the need for funds for such activity is
8 based on unforeseen requirements; and

9 “(iii) the Director of Central Intelligence or
10 the Secretary of Defense has notified the appro-
11 prate congressional committees of the intent to
12 make such funds available for such activity.

13 “(2) Fund available to an intelligence agency may not
14 be made available for any intelligence or intelligence-related
15 activity for which funds were denied by the Congress.

16 “(b)(1) The transfer of a defense article or defense serv-
17 ice exceeding \$1,000,000 in value by an intelligence agency
18 to a recipient outside that agency shall be considered a signif-
19 icant anticipated intelligence activity for the purpose of sec-
20 tion 501 of this Act.

21 “(2) Paragraph (1) does not apply if—

22 “(A) the transfer is being made to a department,
23 agency, or other entity of the United States (so long as
24 there will not be a subsequent retransfer of the defense
25 articles or defense services outside the United States

1 Government in conjunction with an intelligence or in-
2 telligence-related activity); or

3 “(B) the transfer—

4 “(i) is being made pursuant to authorities
5 contained in part II of the Foreign Assistance Act
6 of 1961, the Arms Export Control Act, title 10 of
7 the United States Code (including a law enacted
8 pursuant to section 7307(b)(1) of that title), or the
9 Federal Property and Administrative Services Act
10 of 1949, and

11 “(ii) is not being made in conjunction with an
12 intelligence or intelligence-related activity.

13 “(3) An intelligence agency may not transfer any de-
14 fense articles or defense services outside the agency in con-
15 junction with any intelligence or intelligence-related activity
16 for which funds were denied by the Congress.

17 “(c) As used in this section—

18 “(1) the term ‘intelligence agency’ means any
19 department, agency, or other entity of the United
20 States involved in intelligence or intelligence-related
21 activities;

22 “(2) the term ‘appropriate congressional commit-
23 tees’ means the intelligence committees and the Com-
24 mittee on Appropriations of each House;

1 “(3) the term ‘intelligence committees’ means the
2 Permanent Select Committee on Intelligence of the
3 House of Representatives and the Select Committee on
4 Intelligence of the Senate;

5 “(4) the term ‘specifically authorized by the Con-
6 gress’ means that—

7 “(A) the activity and the amount of funds
8 proposed to be used for that activity were identi-
9 fied in a formal budget request to the Congress,
10 but funds shall be deemed to be specifically au-
11 thorized for that activity only to the extent that
12 the Congress both authorized the funds to be ap-
13 propriated for that activity and appropriated the
14 funds for that activity; or

15 “(B) although the funds were not formally
16 requested, the Congress both specifically author-
17 ized the appropriation of the funds for the activity
18 and appropriated the funds for the activity;

19 “(5) the terms ‘defense articles’ and ‘defense serv-
20 ices’ mean the items on the United States Munitions
21 List pursuant to section 38 of the Arms Export Con-
22 trol Act (22 CFR part 121);

23 “(6) the term ‘transfer’ means—

24 “(A) in the case of defense articles, the
25 transfer of possession of those articles, and

1 “(B) in the case of defense services, the pro-
2 vision of those services; and

3 “(7) the term ‘value’ means—

4 “(A) in the case of defense articles, the
5 greater of—

6 “(i) the original acquisition cost to the
7 United States Government, plus the cost of
8 improvements or other modifications made by
9 or on behalf of the Government; or

10 “(ii) the replacement cost; and

11 “(B) in the case of defense services, the full
12 cost to the Government of providing the
13 services.”.

14 (b) The table of contents at the end of the first section of
15 such Act is amended by inserting the following after the item
16 relating to section 501:

"Sec. 502. Notice to Congress of certain expenditures and certain transfers of defense articles."

17 COUNTERINTELLIGENCE VULNERABILITY REPORT

18 SEC. 402. (a) The Director of Central Intelligence shall
19 review and evaluate the vulnerability of confidential United
20 States Government activities abroad, and information con-
21 cerning such activities, to efforts by foreign powers to detect,
22 monitor or counter such activities, or to acquire such
23 information.

1 (b) Within one hundred and twenty days after the date
2 of enactment of this Act, the Director of Central Intelligence
3 shall submit to the Permanent Select Committee on Intelli-
4 gence of the House of Representatives and the Select Com-
5 mittee on Intelligence of the Senate a comprehensive report
6 on the matters described in subsection (a), including plans for
7 improvements which are within his authority to effectuate,
8 and recommendations for improvements which are not within
9 his authority to effectuate.

10 (c) The report described in subsection (b) of this section
11 shall be exempt from any requirement for publication or dis-
12 closure.

13 TITLE V—GENERAL PROVISIONS

14 RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES

15 SEC. 501. The authorization of appropriations by this
16 Act shall not be deemed to constitute authority for the con-
17 duct of any intelligence activity which is not otherwise au-
18 thorized by the Constitution or laws of the United States.

19 INCREASES IN EMPLOYEE BENEFITS AUTHORIZED BY LAW

20 SEC. 502. Appropriations authorized by this Act for
21 salary, pay, retirement, and other benefits for Federal em-
22 ployees may be increased by such additional or supplemental
23 amounts as may be necessary for increases in such benefits
24 authorized by law.

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